



# **Montana Fish, Wildlife & Parks**

Region 1  
490 North Meridian Road  
Kalispell, MT 59901

## **Foys Bend Management Plan Decision Notice**

**November 2, 2009**

### **Proposal**

In May 2009 Montana Fish, Wildlife & Parks (MFWP) purchased approximately 245 acres on Foys Bend of the Flathead River a few river miles below the Old Steel Bridge southeast of Kalispell. The property, now known as the Foys Bend Fisheries Conservation Area, was purchased using funds provided by the Bonneville Power Administration (BPA) for the express purpose of protecting and enhancing resident fish habitat to help mitigate fish habitat losses associated with the construction of Hungry Horse Dam. This was one of several collaborative land acquisitions made in accordance with a 2007-2009 Memorandum of Agreement between BPA, MFWP, and the Confederated Salish and Kootenai Tribes (CSKT).

BPA requires states and tribes to complete management plans for all lands they acquire using BPA's fisheries mitigation funds. BPA also retains a conservation easement on any lands that MFWP or CSKT purchases using fisheries mitigation program funds. The conservation easement for Foys Bend Fisheries Conservation Area was recorded when MFWP acquired the property in May 2009. This conservation easement ensures the property will be protected in perpetuity for fish and wildlife habitat and restricts activities that would negatively impact the conservation values of the property.

The conservation easement and an associated MOA required MFWP to develop a management plan for Foys Bend within one year of MFWP's acquisition of it. The management plan will provide MFWP with guidelines for the administration of the Foys Bend parcel over the next 10 years and is consistent with the purpose and terms of the conservation easement held by BPA.

### **Environmental Policy Act Process**

MFWP is required to assess potential impacts of the proposed project to the human and physical environment. In compliance with requirements of the Montana Environmental Policy Act (MEPA), a draft environmental assessment (EA) was completed by MFWP and released for public comment on September 18, 2009. Public notices were posted in local newspapers and libraries, and copies of the EA were available at the Region One headquarters in Kalispell and on the MFWP website.

Issues raised during the public comment period on the draft EA are listed in the comment section below. There were two modifications to the draft EA based on public comment that were incorporated into the final management plan: Section 1.5.1 for trapping and Section 1.6.f for mosquito control.

## **Summary of Issues Addressed in the Environmental Assessment (EA)**

The primary goal is to protect, create, and maintain permanent, naturally self-sustaining, native or native-like habitat that is populated primarily with plants and animals native to this area prior to the arrival of European settlers. This goal shall be achieved over time through management actions that promote initial development of such native habitat that then requires only minimal treatment or alteration to maintain these habitat conditions. Within this context, another goal is to provide opportunities for environmental education. Conversion of existing hay fields to native habitat will take time, planning, and management to control weeds, nonnative invasive species, and other competing plants. Conversion of hay fields to forest or shrub habitats or grasslands cannot occur all at once. Interim management could entail several years of active agricultural crop or hay management of some fields while other areas are being restored. Limited grazing and/or hay or crop production may be used to address nuisance wildlife, weeds, game damage, or to benefit native wildlife.

## **Public Comments and Responses to Public Comments**

The comment period on the Foy's Bend Fisheries Conservation Area Draft Management Plan was for 22 days from September 18 to October 9, 2009. Fish, Wildlife & Parks received comments from 5 individuals during the comment period, and 9 issues were identified. Each issue and MFWP response is identified below.

**Comment 1:** Noise of firearms disturbing neighbors' serenity.

**MFWP Response:** The amount of hunting that will be allowed on the property will be very controlled and limited – one hunting party of no more than 4 people per day, from Friday through Monday. No hunting will be allowed from Tuesday through Thursday. It is doubtful that neighbors will be able to tell if there are more gunshots than happen currently from duck and goose hunters on the river.

**Comment 2:** Neighbors concerned about stray bullets and safety.

**MFWP Response:** As in the reply to Issue 1, it is unlikely that neighbors will be able to detect any change in the amount of hunting near their property. Also, in anticipation of and to address this concern, the management plan restricts weapon types beyond those allowed on neighboring properties to shotgun, muzzleloader or traditional handgun only, and no hunting is allowed within 200 yards of any building, including buildings on adjacent properties.

**Comment 3:** A neighbor wanted to know if there was any plan for predator control.

**MFWP Response:** Recreational trapping will be allowed on the property, which will help to control predators. However, if predator populations become a problem, the management plan addresses it on page 21:

“There may, however, be times when wildlife populations will have to be reduced, for example, when animal densities on the property damage the habitat or neighboring properties. In such cases special hunting, trapping, or other measures may be used to achieve desired population reductions.”

**Comment 4:** A neighbor wanted to know if neighboring landowners will have any special privileges to utilize the property since they are the ones most impacted by new hunters and traffic.

**MFWP Response:** As with all other public lands in Montana, there are no provisions accorded to neighbors for recreational purposes. MFWP will, however, look first to neighbors for any agreements for work to be done on the property such as farming, fencing, etc.

**Comment 5:** There was concern about bird hunting and trapping occurring simultaneously and the possibility of a domestic dog being caught in a trap.

**MFWP Response:** Trapping and upland and waterfowl hunting are done simultaneously all over Montana, and in many cases in places where there is a higher hunter density than likely to occur here. We do not see a higher potential for conflicts here than on many other areas. As pointed out on page 4 of the draft management plan, trapping needs special authorization from MFWP. However, the raising of this issue prompted MFWP to further clarify regulations concerning trapping on the FBFCA. Therefore, the following is added to Section 1.5.1 Public Access Rules and Regulations in the final management plan:

Trapping will be allowed by one permitted individual who has daily access to check traps from the opening of trapping season, November 1, until the end of waterfowl season, usually about mid-January, to conform with the general closure of the area to the public to provide wildlife security. Use of snares will not be allowed and trapping regulations on the FBFCA concerning ground sets are same as those in the Montana furbearer regulations concerning Public Land Ground Sets:

“Ground sets using 7x7-inch and larger body-gripping traps must have the trigger recessed a minimum of seven (7) inches in wood, plastic and metal enclosures or cubby that provide an opening of 52 square inches or less.”

Additional trapping after the waterfowl season may be allowed as a predator population control measure.

**Comment 6:** One person wondered whether it might be possible to allow more than one party at a time to use the property for recreational/hunting/fishing purposes.

**MFWP Response:** The amount of use on the property is a sensitive issue that was identified during initial scoping and was raised during the comment period (see Issues 1 and 2 above). It must be remembered that, as pointed out on page 4 of the draft EA, public recreation is not the primary purpose of the FBFCA, but is an important secondary purpose for this property. Moreover, under the Montana Good Neighbor Policy (MCA 23-1-126) MFWP must be sensitive to and address, “impact on those adjoining lands from noxious weeds, trespass, litter, noise and light pollution, streambank erosion, and loss of privacy.” MFWP has addressed these concerns and regulations by limiting the time and amount of public access.

**Comment 7:** Two people commented on the property caretaker who will live in the residence on the property and the costs involved. One person was not in favor of a caretaker while the other was.

**MFWP Response:** There will be no cost to MFWP for the caretaker because the person will live there free of charge in exchange for their services of daily management chores, deterring vandalism, monitoring compliance with regulations, etc. An MFWP Warden Sergeant is the current caretaker.

**Comment 8:** Mosquito control. Flathead County Mosquito Control (FCMC) wants to continue mosquito control work on the standing water on the property. Treatment of this property has been important to mitigate impacts of mosquitos on adjoining property owners along Lower Valley Road. The county uses low toxicity larvicides in strict accordance to label and EPA standards.

**MFWP Response:** MFWP's pollution control biologist determined that the FCMC project would have no effects on fish, as the products would only be used on standing water and they are specific to mosquito larvae and would not affect other aquatic insects. Therefore, in the final management plan Section 1.6.f is added, allowing continued mosquito larvicide treatments.

**Comment 9:** One person thought there were too many regulations and wondered why even open the land to the public at all.

**MFWP Response:** Page 4 of the draft EA notes, "Public use and enjoyment of this property are important secondary purposes for this property, but such public uses will be carefully managed to avoid adverse impacts to any of the conservation values associated with this property."

### **Decision**

Through the MEPA process, MFWP found no significant impacts on the human or physical environments associated with this management plan. Therefore, the EA is the appropriate level of analysis, and an environmental impact statement is not required.

Based on the EA and public comment, it is my decision to accept the Foys Bend Management plan with the two modifications described above.

*James R. Satterfield, Jr.*

November 2, 2009

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James R. Satterfield, Jr., Ph.D.  
Regional Supervisor

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Date